

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1580 OF 2018
IN
FIRST APPEAL NO. 661 OF 2013**

Maharashtra State Road Transport Corporation
Limited

... Applicant

V/s.

Smt. Kavita Pundlik Umbergonde & Ors.

... Respondents

Ms. V.P.Deshmukh i/b. Y.P.Deshkumb, Advocate for Applicant.
Ms. Rina Kundu, Advocate for Respondents Nos. 1 to 4.

**CORAM : K. K. TATED, J.
DATED : 11th OCTOBER, 2019**

P.C. :

1. Heard Learned Counsel for the parties.
2. Advocate Ms. V.P.Deshmukh for the applicant submits that, they already served the Respondent No.5 also. She submits that, they filed affidavit of service dated 4th October, 2019 in Registry. Her statement is accepted.
3. By this Civil Application, applicant is seeking to set aside the order dated 28th October, 2014 passed by the Learned Registrar

(Judicial-II) by which the First Appeal No. 661 of 2013 with Civil Application No. 2150 of 2013 stands dismissed for want of service on Respondent Nos. 1 to 5.

4. The learned counsel for the applicant submits that it remained on their part to take appropriate steps immediately. She submits that, now all the respondents are duly served. She submits that, in the interest of justice this Hon'ble Court be pleased to restore the First Appeal and same to be heard on its own merits.

5. On the other hand the learned counsel Ms. Rina Kundu appearing on behalf of Respondent nos.1 to 4 vehemently opposed the present application. She submits that, applicant failed to disclose the sufficient cause for delay in filing the application. She further submits that, even the applicant failed to comply the order passed by this court, that is to deposit the entire awarded amount in Tribunal, therefore, there is no question of allowing the present Civil Application.

6. Considering the submissions made by the learned counsel for the applicant and reasons disclose in Civil Application, I satisfy that, applicant has made out a case for allowing this Civil Application. At the same time, they have to pay cost of Rs. 5,000 because of delay in filing the Civil Application. Hence, following order.

ORDER

- a) Order dated 21/08/2014 passed by the learned Registrar (Judicial-II) in First Appeal No. 661 of 2013 and Civil Application No. 2150 of 2013 is set aside.
- b) First Appeal No. 661 of 2013 and Civil Application no. 2150 of 2013 is restored on file for hearing on its own merits.
- c) Applicant to pay cost of Rs. 5,000/-.
- d) Cost to be deposited in the Kirtikar Law Library, First Floor, High Court, Main Building, Bombay on or before 16/11/2019 and place on record the receipt thereof, failing which, Civil Application shall stands dismissed without further reference to the Court.
- e) Advocate Ms. Rina Kundu waive serve for Respondent No.1 to 4 in First Appeal No.661 of 2013 and Civil Application No.2150 of 2013.
- f) Civil Application disposed of accordingly.

(K.K.TATED, J.)